

FCA CRIMINAL REFERRAL FORM INSTRUCTIONS

Purpose

The FCA Criminal Referral Form (hereinafter FCA Referral Form), which is attached, provides Farm Credit System (FCS or System) institutions and FCA examiners with the means to make referrals to law enforcement agencies of known or suspected criminal activity perpetrated against the institution by insiders (i.e., institution personnel, such as directors, officers, employees, agents, or other persons participating in the conduct or affairs of such institution) or others, such as borrowers. The FCA Referral Form should be used in all cases where known or suspected criminal violations of the type described in 12 CFR Part 617 are discovered by an institution or an examiner. For the purposes of this form, "suspected criminal activity" means that there is a reasonable basis to conclude that a crime has occurred or is occurring.

Filing Requirements

In accordance with FCA Regulations at 12 CFR Part 617, the FCA Referral Form should be filed within 30 calendar days of determining that a known or suspected criminal violation meeting the reporting threshold has occurred. This form should be filled out as completely as practicable under the circumstances. Section I and only those pertinent sections need to be forwarded to the law enforcement authorities. Comments should be limited to factual statements, and under no circumstances should the preparer express views on the guilt of any suspect(s). When a known or suspected criminal violation requires urgent attention or is ongoing, the institution should immediately notify law enforcement authorities by telephone before filing the FCA Referral Form. Examiners should follow the procedures in EM-640 for filing an FCA Referral Form.

Where to File:

IF THE FCA REFERRAL FORM IS PREPARED BY AN FCS INSTITUTION:

1. Send the original form to the U.S. Attorney for the region in which the acts took place.
2. Retain one copy of the form, along with the supporting document(s), for 10 years. (Generally, the statute of limitations for most financial banking crimes is 10 years.) Institutions do not need to forward copies of supporting documents.
3. Send one complete copy of the FCA Referral Form to the following offices as appropriate:
 - a. If the System institution is a Farm Credit Bank or a Federal Land Bank Association, the Referral Form must be sent to:
 - (1) The U.S. Secret Service and,
 - (2) If the known or suspected criminal violation involves the Federal money laundering statutes, the Federal Bureau of Investigation.
 - b. All other System institutions must forward the Referral Form to:

- (1) The Federal Bureau of Investigation and,
 - (2) If the known or suspected criminal violation involves either the Federal money laundering or computer fraud statutes, the U.S. Secret Service.
- c. If a System institution cannot determine the appropriate Federal law enforcement investigatory agency to forward the Referral Form to or if there appears to be overlapping jurisdiction to investigate the violations noted in the Referral Form, the System institution should forward the Referral Form to both the Federal Bureau of Investigation and the U.S. Secret Service.
 - d. U.S. Customs Service for the region in which the acts took place if wire fraud is known or suspected.
 - e. Internal Revenue Service for the region in which the acts took place if any tax or money laundering/structuring violations are known or suspected.
 - f. U.S. Postal Service for the region in which the acts took place if mail fraud is known or suspected.
4. Send one complete copy of the FCA Referral Form to:

Office of General Counsel
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090
(703) 883-4020
 5. Send one complete copy of the FCA Referral Form to other appropriate Federal, State, or local prosecuting or regulatory agencies if the suspected acts violate other Federal, State, or local law.

IF THE FCA REFERRAL FORM IS PREPARED BY AN FCA EXAMINER/EMPLOYEE:

1. Send the original form to the FCA's Office of General Counsel.
2. Retain one copy in the workpapers.
3. Send one copy to the FCS institution's Board of Directors, as appropriate.

FCA CRIMINAL REFERRAL FORM

Date: _____

Section I - BACKGROUND INFORMATION

1. Name, location, and phone number of the FCS institution:

Name: _____

Location: _____
Street

City State Zip Code

Phone number: _____

If transaction occurred at branch office(s), please specify the branch name and address:

2. Asset size of institution: \$ _____

3. Approximate date and dollar amount involved in suspected violation(s):

Date: _____ Amount: _____

4. The following violation of the criminal code of the United States may have occurred:

- | | | | |
|--------------------------|-------------------------------------|------------------|----------------------|
| <input type="checkbox"/> | Conversion ^a | (18 U.S.C. 658) | Complete Section II |
| <input type="checkbox"/> | False Statement ^a | (18 U.S.C. 1014) | Complete Section III |
| <input type="checkbox"/> | False Entry, etc. ^a | (18 U.S.C. 1006) | Complete Section IV |
| <input type="checkbox"/> | Misappropriation, etc. ^a | (18 U.S.C. 657) | Complete Section V |
| <input type="checkbox"/> | Other ^b | (18 U.S.C. ____) | Complete Section VI |

5. This matter is being referred to the U.S. Attorney in _____
City

State Judicial District (if known)

and, as applicable, to the FBI in _____
City State

and/or the U.S. Secret Service in _____
City State

Other: _____

6. Person(s) suspected of criminal violation (if more than one, use a continuation sheet):

^a Excerpt of the statute in EM-640 of the *FCA Examination Manual*.

^b See, e.g., 18 U.S.C. §§ 212, 213, 215, 216, 371, 493, 709, 1011, 1013, 1907, and 1909.

a. Name: _____
First M.I. Last
Address: _____
Street City State Zip Code
Date of birth (if known): _____
Social Security number (if known): _____

b. Identity of suspect (check all appropriate boxes):

Insider

☐ Officer ☐ Borrower ☐ Other (specify) _____
☐ Employee ☐ Unknown suspect
☐ Director
☐ Agent

c. If the suspect is an insider, is the person currently affiliated with the institution?

☐ Yes ☐ No

If no, ☐ terminated ☐ resigned ☐ other (specify)

Date: _____

Describe circumstances of separation as appropriate (if necessary, use a continuation sheet):

d. Prior or related referrals of this individual?

☐ Yes ☐ No

If yes, please describe the basis for the prior referral: _____

e. Referral pertaining to another individual arising out of or related to this referral?

☐ Yes ☐ No

If yes, please describe the basis for this related referral: _____

f. Is person affiliated with any other financial institution? ☐ Yes ☐ No
Is person affiliated with any other business enterprise? ☐ Yes ☐ No

If yes to either or both, please identify: _____

7. Offer of assistance:

The individuals listed below are/will be authorized to discuss this referral with appropriate law enforcement officials and to assist in locating or explaining any document pertinent to this referral:

Name	_____	Phone No.	_____
Name	_____	Phone No.	_____
Name	_____	Phone No.	_____

8. FCA Referral Form prepared by: _____

Position: _____ FCA Examiner? ☐ Yes ☐ No

Institution (if other than the FCS institution previously identified): _____

Phone No. _____

Address: _____

Date: _____

THE FOLLOWING SECTIONS OF THE REFERRAL ARE CRITICAL. They should be as detailed as circumstances permit. The care with which this section is written may make the difference in whether or not the described conduct and its criminal nature are clearly understood. The discussion points listed in these sections are not exhaustive. Feel free to use attachments or to continue the description on a separate sheet. Include any suggestions for interviewing witnesses, gathering documents, or anything else which might prove useful.

Section II - CONVERSION

(18 U.S.C. 658)

1. Note(s):

Date _____
 Amount _____
 Maturity _____
 Balance due as of this date _____

2. Identity of the security instrument:

- ☐ Financing statement/security agreement
☐ Chattel mortgage
☐ Other _____
 Office of filing _____
 Date filed _____

3. Information about property converted:

- a. Type of property

- ☐ Livestock: kind _____ breed _____ number _____
 brands _____ other identifying data _____
☐ Equipment: type _____ model _____ year _____
 serial number _____ other identifying data _____
☐ Crops: kind _____ quantity _____
☐ Other _____

- b. Value at date of conversion _____
- c. Valuation basis _____
- d. Usual location of property if different from address of borrower shown in Section I _____

- e. The property was disposed of by the borrower on or about _____, _____
by sale ☐ pledge ☐ other ☐ (explain) _____ to _____

Street	City	County	State
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for the sum of \$_____.

4. The conversion resulted in a loss (or potential loss) to the System institution identified in Section I in the amount of \$_____.

5. Witnesses (names, addresses, and brief description of expected testimony):

6. Other persons suspected of criminal violation (names, addresses, and brief description of involvement):

7. Present whereabouts of borrower if different from address shown in Section I:

8. Did borrower request consent to dispose of any of the collateral?

☐ Yes ☐ No

Has borrower applied proceeds of the conversion to the loan secured by the collateral?

☐ Yes ☐ No ☐ In part

9. Had borrower previously disposed of collateral without consent?

☐ Yes ☐ No

Did borrower previously apply proceeds of the conversion to the loan secured by the collateral?

☐ Yes ☐ No ☐ In part

10. Is disposition of collateral by debtors without the consent of creditors a customary practice in the community?

☐ Yes ☐ No

11. If this matter has been reported to local authorities, state when and to whom the report was made and any action taken:

12. Describe any civil action taken or to be taken to prevent or recover loss:

Section III - FALSE STATEMENT

(18 U.S.C. 1014)

1. Available information indicates that a false statement regarding assets, liabilities, or other information was made on:

☐ loan application
☐ other documents Identify: _____

2. The document containing the false statement was prepared by _____

3. Statement was false because (explain) _____

4. The statement was relied on by the FCS institution identified in Section I, which took the following action as a result: made a loan in the amount of \$ _____ or other (explain) _____.
5. The action described in item 4 resulted in a loss (or potential loss) to the System institution in the amount of \$_____.
6. Witnesses (names, addresses, and brief description of expected testimony): _____

7. Other persons suspected of criminal violation (names, addresses, and brief description of involvement): _____

8. Present whereabouts of person named in Section I if different from the address shown in that section: _____

9. If this matter has been reported to local authorities, state when and to whom the report was made and any action taken: _____

10. Describe any civil action taken or to be taken to prevent or recover loss: _____

Section IV - FALSE ENTRY, ETC.

(18 U.S.C. 1006)

1. Available information indicates that the person named in Section I:

☐ made a false entry in a book, report, or statement to the System institution identified in Section I. (Describe the nature of the false entry.)

☐ without being authorized, drew an order or bill of exchange, made an acceptance, or issued, put forth, or assigned a note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree. Identity of the document: _____

☐ participated or shared in or received directly or indirectly money, profit, property, or benefits through a transaction, loan, commission, contract, or other act of the System institution. Description of what was received and the type of transaction: _____

2. The action described in item 1 resulted in a loss (or potential loss) to the System institution in the amount of \$ _____.

3. Witnesses (names, addresses, and brief description of expected testimony): _____

4. Other persons suspected of criminal violation (names, addresses, and brief description of involvement): _____

5. Present whereabouts of person named in Section I if different from the address shown in that section: _____

6. If this matter has been reported to local authorities, state when and to whom the report was made and any action taken: _____

7. Describe any civil action taken or to be taken to prevent or recover loss: _____

Section V - MISAPPROPRIATION, ETC.

(18 U.S.C. 657)

1. Kind of property misappropriated (money, securities, or other things of value belonging to the System institution identified in Section I): _____

2. Value of property misappropriated (embezzled, abstracted, purloined, willfully misapplied):
\$ _____
3. Disposition of property misappropriated: _____

4. Witnesses (names, addresses, and brief description of expected testimony): _____

5. Other person(s) suspected of criminal violation (names, addresses, and brief description of involvement): _____

6. Present whereabouts of person named in Section I if different from the address shown in that section: _____
7. If this matter has been reported to local authorities, state when and to whom the report was made and the action taken: _____
8. Describe any civil action taken or to be taken to prevent or recover loss: _____

Section VI - OTHER

Describe the offense, when it occurred and the cost to the System institution, if any. Provide the names and addresses of witnesses and a brief description of their expected testimony. State the present whereabouts of the person(s) named in Section I if different from the address shown in that section. Attach a narrative report describing any other pertinent statements and documents.